

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8427 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?
No

ABDULREHMAN MAHAMD USMAN THRO'HERIS & LEGAL REPRES.

Versus

STATE OF GUJARAT

Appearance:

MR JM PATEL, for the petitioners.
MR TH SOMPURA, GOVERNMENT PLEADER for Respondent No. 1
SERVED for Respondent No. 2, 3, 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 09/12/96

ORAL JUDGEMENT

Rule, returnable today. Learned Asstt.
Government Pleader Mr. Sompura, waives service of rule
on behalf of the respondents.

2. The petitioners challenge the order of the respondent no.4 Gujarat Revenue Tribunal declaring that Appeal No.TEN-AA 169/86 preferred by Abdulreheman Mahmudhusen Vastavala is abated on account of demise of the appellant.

3. Feeling aggrieved the petitioners, who are heirs and legal representtives of late Abdulreheman, have preferred this petition. Learned Advocate Mr. Patel has appeared for the petitioners and has submitted that late Abdulreheman died on 22-8-1988 and immediaetly in the month of November 1988 the petitioners made an application for being impleaded as heirs and legal representatives of late Abdulreheman in Appeal No.TEN-AA 169/86. However, without considering the said application and without making any order on the same the Tribunal erroneously made the order of abatement.

4. In view of the above facts, the impugned order made by the Tribunal on 30-9-1986 on Appeal No.TEN-AA 169/86 is quashed and set aside. The appeal is remanded to the Tribunal for decision afresh. The Tribunal shall first consider the petitioners' application for being impleaded as heirs and legal representatives of late Abdulreheman.

5. Mr. Patel states that the original record of the Tribunal has not been traced for a long time and the application annexure 'B' might not be placed on record of the Tribunal. In that case, the petitioner shall be at liberty to make an application to reconstruct the record including the application at annexure 'B' to the petition.

6. Petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs.

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